

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 MICHAEL A. SHEKEY, State Bar No. 143436
Deputy Attorney General
3 Department of Justice
300 South Spring Street, Suite 500
4 Los Angeles, California 90013
Telephone: (213) 897-2520
5
6 Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF ACCOUNTANCY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation) NO. AC-97-20
Against:)
12)
MICHAEL S. WEISSENFLUH) **STIPULATION IN SETTLEMENT**
13 Post Office Box 861) **OF ACCUSATION AND ORDER**
Rolkaway Beach, Oregon 97136)
14)
Certificate No. 47406,)
15)
Respondent.)
16)

17
18 Respondent, Michael S. Weissenfluh, and the California
19 Board of Accountancy (hereinafter referred to as the "Board")
20 through its counsel, Deputy Attorney General Michael A. Shekey,
21 do hereby enter into the following Stipulation:

22 1. Respondent Michael S. Weissenfluh (hereinafter
23 referred to as the "Respondent") hereby acknowledges receipt of
24 Accusation No. AC-97-20 (attached hereto as Exhibit "A"), a
25 Statement to Respondent, a Request for Discovery, excerpts of
26 California Government Code, sections 11507.5, 11507.6 and
27 11507.7, and a Notice of Defense.

1 2. On or about August 1, 1997, Accusation No. AC-97-
2 20 was served on Respondent on behalf of Carol B. Sigmann, in her
3 official capacity as Executive Officer of the California Board of
4 Accountancy.

5 3. Respondent has fully considered the charges and
6 allegations contained within Accusation No. AC-97-20 on file with
7 the Board, and Respondent has been fully advised with regard to
8 his rights in this matter.

9 4. Respondent is fully aware of the right to a hearing
10 on the charges and allegations contained within said Accusation
11 No. AC-97-20, his right to reconsideration, appeal, and all other
12 rights which may be accorded pursuant to the California
13 Administrative Procedure Act and the laws of the State of
14 California.

15 5. Respondent hereby freely and voluntarily waives his
16 right to a hearing, reconsideration, appeal, and any and all
17 other rights which may be accorded by the California
18 Administrative Procedure Act and the laws of the State of
19 California with regard to Accusation No. AC-97-20.

20 6. Respondent has been and is presently representing
21 himself in this matter. The Board has been and is represented by
22 Daniel E. Lungren, Attorney General, through Michael A. Shekey,
23 Deputy Attorney General.

24 7. The parties hereto agree that the Stipulation
25 recited herein shall be null and void and not binding upon the
26 parties unless and until approved by the Board.

27 / / /

1 8. This Stipulation is made for the purpose of
2 settling Accusation No. AC-97-20. It is only for the purpose of
3 this proceeding and any other subsequent proceeding between the
4 Board and Respondent, or any action taken by or before any
5 governmental body responsible for licensing accountants.

6 9. Respondent admits that if the allegations, as
7 contained within the subject Accusation, were proven at an
8 administrative trial, his license would be subject to appropriate
9 discipline, including revocation.

10 10. Based on the admissions and waivers set forth
11 hereinabove, Respondent agrees that the Board may issue the
12 following Order:

13 ORDER

14 Accountancy Certificate No. 47406, previously issued to
15 Respondent Michael S. Weissenfluh, is hereby revoked.

16 In consideration of Respondent's stipulation of
17 revocation, the Board will not seek reimbursement of related and
18 accrued investigation and prosecution costs in this matter at
19 this time. Should the Respondent seek reinstatement in the
20 future, however, he agrees to reimburse the Board for such
21 related costs incurred in this action prior to the Board's
22 consideration of his Petition for Reinstatement.

23 / / /

24 / / /

25 / / /

26 / / /

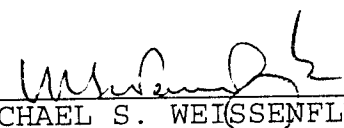
27 / / /

SUBMISSION OF STIPULATION

I have read and reviewed the terms and conditions of the Stipulation and Order set forth hereinabove. I understand that this is an offer in settlement made to the Board, and will not be effective unless and until the Board formally adopts said Stipulation as its Decision in this matter. I expressly acknowledge that if adopted, my Certificate No. 47406 will be revoked, effective the day on which the Board adopts said Stipulation as its Decision in this matter. I voluntarily enter into the instant Stipulation and agree to be bound by the terms and conditions of the disciplinary Order herein.

DATED: _____

11-3-97


MICHAEL S. WEISSENFLUH
Respondent

SUBMISSION

The foregoing is submitted to the California Board of Accountancy for consideration and adoption as its Decision in Accusation No. AC-97-20. In the event that the Board rejects the proposed Stipulation in this matter, the admissions of facts and characterizations of law set forth hereinabove shall be null, void and inadmissible in any proceeding involving the parties to it, and a hearing in this matter shall be scheduled forthwith.

DATED: 11-13-97

DANIEL E. LUNGREN, Attorney General
of the State of California


MICHAEL A. SHEKEY
Deputy Attorney General

Attorneys for Complainant

ADOPTION AND DECISION

The Stipulation in Settlement of Accusation and Order in this matter is formally adopted by the California Board of Accountancy as the Decision in the matter of the Accusation No. AC-97-20 against Michael S. Weissenfluh, on this 8th day of December, 1997, and shall become effective on the 7th day of January, 1998.



CALIFORNIA BOARD OF ACCOUNTANCY

EXHIBIT A

DANIEL E. LUNGREN, Attorney General
of the State of California
MICHAEL A. SHEKEY, State Bar No. 143436
Deputy Attorney General
Department of Justice
300 South Spring Street, Suite 500
Los Angeles, California 90013
Telephone: (213) 897-2520

Attorneys for Complainant

BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

NO. AC-97-20

MICHAEL S. WEISSENFLUH)
Post Office Box 861)
Rolkaway Beach, Oregon 97136)

ACCUSATION

Certificate No. 47406,)
Respondent.)

Complainant, Carol B. Sigmann, as cause for
disciplinary action, alleges:

1. Complainant is the Executive Officer of the
California State Board of Accountancy (hereinafter referred to as
the "Board"), and makes and files this Accusation solely in her
official capacity.

LICENSE STATUS

2. On or about January 30, 1987, Certified Number
47406 was issued by the Board to Michael S. Weissenfluh
(hereinafter referred to as the "Respondent"), and at all times

1 relevant herein, that certificate was currently in full force and
2 effect. Subsequently, Respondent's Certificate expired on
3 June 1, 1996 and has not since been renewed.

4 STATUTES

5 3. This Accusation is made in reference to the
6 following statutes of the California Business and Professions
7 Code (hereinafter referred to as the "Code"):

8 A. Section 5100, in pertinent part, provides that the
9 Board may revoke, suspend or refuse to renew any permit or
10 certificate issued by the Board, or may censure the holder
11 of any such permit or certificate for unprofessional conduct
12 which includes, but is not limited to, one or any
13 combination of the following causes:

14 * * *

15 "(h) Fiscal dishonesty or breach of
16 fiduciary responsibility of any kind.

17 * * *

18 (j) Embezzlement, theft, misappropriation of
19 funds or property, or obtaining money, property,
20 or other valuable consideration by fraudulent
21 means or false pretenses."

22 B. Section 5107 provides, in pertinent part, that the
23 Board may request the administrative law judge as part of
24 the proposed decision in a disciplinary proceeding, to
25 direct any holder of a permit or certificate found in
26 violation of Section 5100 (b), (c), (h), (i), or (j) to pay
27 to the Board all reasonable costs of investigation and

1 prosecution of the case, including, but not limited to,
2 attorneys' fees.

3 FACTS

4 4. The Respondent, then a partner in the accounting
5 firm of Bjerre, Miller & Weissenfluh, solicited four clients^{1/} to
6 invest in Moviescope, Inc. so as to help Moviescope, Inc. raise
7 capital. In agreeing to help Moviescope raise capital,
8 Respondent agreed to accept as compensation 20,000 shares^{2/} of
9 Moviescope, Inc. stock. Respondent, as well as his partners,
10 Mads Bjorn Bjerre and Joseph M. Miller, had authority to sign the
11 aforementioned investors' checks, which require two signatures,
12 except for P.K., which required only one signature.

13 Subsequently, Respondent informed Bjerre and Miller that he was
14 now having the clients, themselves, co-sign their own checks.

15 5. In or about late June/early July, 1994, Bjerre and
16 Miller reviewed financial statements prepared by Respondent, and
17 noted therein that the investment in Moviescope, Inc. by T.B. and
18 A.S. had far exceeded the original commitment.^{3/}

19 / / /

21 1. The identity of clients T.B., A.S., P.K., and B.A.
22 will be made know to Respondent subsequent to a discovery
23 request.

24 2. Within a 1993 tax return for Moviescope, Inc., it
25 indicated therein that Respondent had a 25.9 percent interest in
26 the company.

27 3. Respondent subsequently informed his partners, Bjerre
and Miller, that the original investment commitment by both T.B.
and A.S. was \$100,000 each. Bjerre and Miller discovered that
their individual investment amounts had then totaled \$225,000 and
\$150,000, respectively.

1 6. On or about July 6, 1995, Bjerre and Miller
2 received telephone calls from T.B., A.S., and P.K., during which
3 time they indicated that they had only authorized an investment
4 of \$25,000 each.^{4/5/}

5 7. As a result of the conduct described in paragraph
6 4, 5 and 6, Respondent is subject to discipline under Business
7 and Professions Code, sections 5100 (h) and (j), by forging
8 client signatures on their respective checks under the
9 Respondent's control, and by investing the funds in a "high risk"
10 movie venture, Moviescope, Inc.

11 PRAYER

12 WHEREFORE, Complainant requests that a hearing be held
13 on the matters alleged herein, and that following said hearing, a
14 decision be issued:

15 1. Revoking or suspending Certificate Number 47406,
16 heretofore issued to Respondent Michael S. Weissenfluh;

17 2. Directing Respondent to pay to the Board of
18 Accountancy a reasonable sum for its investigation and
19 prosecution costs of this action, including attorneys' fees; and

20 / / /


21 / / /

22
23 4. Subsequently, T.B. and A.S. stated in affidavits that
24 their signatures on certain checks processed through City
25 National Bank were forged. City National Bank agreed that the
checks in question had been forged, and as a result, reimbursed
T.B. \$100,000 and A.S. \$50,000 for the check forgeries.

26 5. Under Bjerre and Miller's fidelity bond, T.B. and A.S.
27 were reimbursed an additional \$100,000 and \$75,000 respectively.
Hence, both T.B. and A.S. were made whole on their investments
except for the original \$25,000 investment.

3. Taking such other and further action as the Board
deems necessary and proper.

DATED: July 22, 1997


CAROL B. SIGMANN
Executive Officer
Board of Accountancy
Department of Consumer Affairs
State of California

Complainant

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